

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

Claim 47 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite because it is considered to be unclear whether applicant is claiming a fixture or a fixture in combination with a component, and because the recited phrase "is connectable" is considered to be unclear. In reply, independent claim 31, from which claim 47 depends, has been amended to positively recite a component and a rack in combination with the fixture which connects the recited component and rack, and the term "connectable" has been amended to "connected" to more positively recite the structure which is being claimed, overcoming the rejection of claim 47 under 35 U.S.C. §112, second paragraph. Independent claim 20 has similarly been amended to positively recite a component in combination with the fixture which receives the component, and dependent claims 15, 19, 30 and 41 to 45 have been amended to positively recite identified structures, to better comply with the requirements of 35 U.S.C. §112, second paragraph.

Claims 1, 2, 4 to 6, 8 and 9 have been rejected under 35 U.S.C. §102(b) as being anticipated by a patent to Jandrakovic (US 5,079,789). Claim 5 is in the alternative rejected under 35 U.S.C. §103(a) in view of Jandrakovic. The remaining claims are rejected under 35 U.S.C. §103(a) as being unpatentable over

various proposed combinations of Jandrakovik with identified U.S. patents. For reasons which follow, these various rejections are respectfully traversed, and a reconsideration and withdrawal of the various rejections which have been formulated is respectfully requested.

Turning first to the rejection of claims 1, 2, 4 to 6, 8 and 9 under 35 U.S.C. §102(b), Jandrakovik does not disclose the structure which is recited in applicant's claims.

Independent claim 1 recites a first plate which is pivotally connected to a second plate "so that, in a first position, the first plate is adjacent to and in substantial alignment with the second plate and, in a second position, the first plate is rotated to an orientation which laterally projects from the second plate" (emphasis added).

Jandrakovik discloses a turning apparatus 10 having a foot plate 12 and a base platform 16 which are interconnected by a turntable 14 (column 2, lines 7 to 10). The foot plate 12 is said to be "about eighteen inches square" (column 2, lines 11 and 12; emphasis added). The foot plate 12 is further said to be connected to the remainder of the apparatus 10 by a bolt 20 which is inserted into "a central threaded bore 18" of the foot plate 12 (column 2, lines 12 and 13; emphasis added), then through a "central bore 32 in plate 24 and central bore 34 in plate 26" of the turntable 14 (column 2, lines 17 and 18; emphasis added), and which is finally received in a "central bore 38" of the base platform 16 (column 2, line 26; emphasis added). As is further

clearly apparent from Jandrakovik's drawings, the foot plate 12, the turntable 14 and the base platform 16 are all symmetrically disposed about a centrally positioned bolt 20, which defines the operative axis for the turning apparatus 10.

Consequently, while the turning apparatus 10 is said to be capable of rotating through "about a one-quarter turn (about 90 degrees)" (column 2, line 25), it is a necessary result of the foregoing structural relationships that the foot plate 12 will in all positions be in substantial alignment with the base platform 16, and that there is no position in which the base plate 12 will laterally project from the base platform 16.

As a result, Jandrakovik fails to disclose an apparatus having a first plate which is pivotally connected to a second plate "so that, in a first position, the first plate is adjacent to and in substantial alignment with the second plate and, in a second position, the first plate is rotated to an orientation which laterally projects from the second plate", overcoming the rejection of applicant's claims 1, 2, 4 to 6, 8 and 9 under 35 U.S.C. §102(b).

Turning next to the rejection of claim 5 under 35 U.S.C. §103(a) over Jandrakovik, it is noted that Jandrakovik is directed to an "invalid turning apparatus", which is said to be locatable "on the floor next to an invalid's bed which permits a standing assisted invalid patient to be turned from one position next to the bed to another position for sitting, such as in a wheel chair" (column 1, lines 8 to 11). Consequently, the very

purpose of Jandrakovik's turning apparatus would preclude any orientation in which the foot plate 12 would laterally project from the base platform 16 because this would then create an unstable position for the turning apparatus 10. This would, in turn, promote unsafe tipping of the apparatus, giving rise to an unstable position for supporting the patient, and rendering the turning apparatus inoperative for its stated purpose.

Accordingly, it is submitted that the person of ordinary skill in the art at the time the present invention was made would not have referred to the disclosure of Jandrakovik for purposes of developing a fixture for mounting a component to a rack, or the fixture which is recited in applicant's claims. It is further submitted that the disclosure of Jandrakovik would not have taught or in any way suggested the fixture recited in applicant's claim 5, or in the remainder of applicant's claims, to the person of ordinary skill in the art at the time the present invention was made, overcoming the rejection of applicant's claim 5 under 35 U.S.C. §103(a).

Turning finally to the rejection of applicant's remaining claims under 35 U.S.C. §103(a), independent claim 20 has been rejected over a proposed combination of Jandrakovik and a patent to Krimstock (US 2,617,473). Krimstock discloses a tray 24 which can be detachably mounted to the side arm 16 of a chair. The tray is pivotally associated with a sleeve which is capable of sliding over the side arm, for mounting purposes. While it is true that the pivot 26 which interconnects the tray 24 and the

sleeve is positioned in a corner of the tray, there is no disclosure whatsoever, in Krimstock or in Jandrakovic, which would in any way suggest that Krimstock's detachably mounted tray should, or even could be combined with Jandrakovic's invalid turning apparatus.

In fact, precisely the opposite is true; the person of ordinary skill in the art, at the time the present invention was made, would not have even contemplated combining Jandrakovic and Krimstock because the disclosed structures have entirely opposite purposes. The purpose of Jandrakovic's apparatus is to permit a patient to be turned from one position, next to a bed, to another position for sitting. Consequently, and for purposes of safety, the pivot point for the turning apparatus is centrally located so that the base plate 12 of the apparatus will in all cases remain centered over the base platform 16. The purpose of Krimstock's apparatus is to provide a chair with a removable tray which can be selectively moved into position, in front of the user, and cantilevered outwardly, away from the user. Consequently, by combining Krimstock's tray with Jandrakovic's apparatus, the resulting combination would be unsafe for its intended purpose because the cantilevered position which would then be created would not be safe for use by a patient. Similarly, Krimstock's chair could not be fitted with Jandrakovic's apparatus because this would in all cases leave the tray in front of the user, preventing the tray from performing its intended purpose.

Accordingly, the proposed combination of Jandrakovic

and Krimstock is in no way motivated by these patents, but is instead an impermissible hindsight reconstruction of applicant's claimed invention.

Moreover, even if the combination of Jandrakovik and Krimstock which is proposed in the Office Action was attempted, the resulting structure would not be functional. It is unclear how the tray 24 of Krimstock could be mated with the base platform 16 of Jandrakovik while preserving the function of the groove 36 formed in the base platform 16, which is important for correctly supporting the patient on the turning apparatus 10. Preserving the groove 36 would ensure correct support of the patient, but would then preclude full movement of the tray 24 of Krimstock from a position in front of the user to a position away from the user.

From this, it is apparent that the proposed combination of Jandrakovik and Krimstock is a random combination of unrelated patents for the purpose of reconstructing the subject matter of applicant's claims, and that the rejection of applicant's claims based on the proposed combination of Jandrakovik and Krimstock is unwarranted.

Independent claim 31 is rejected over a proposed combination of Jandrakovik, Krimstock and a patent to Gibbons (US 6,123,203). Again, there is no motivation whatsoever for this proposed combination of patents. In addition to the above discussed reasons why Jandrakovik is not properly combined with Krimstock, no motivation can be found for combining Gibbons with

Jandrakovik and/or Krimstock.

Gibbons discloses an adaptive mounting ear which can be used to releasably mount electronic equipment to an EIA rail of a rack system. The purpose of the adaptive mounting ear is to be able to releasably mount equipment having a width approximating that of the rack, which would otherwise not be securable to the rack. Gibbons was not confronted with, and does not recognize the problems associated with a rack having a region for receiving components which includes an area of limited access, which was facing applicant at the time the present invention was made.

In this regard, it is noted that at the bottom of page 12 of the Office Action, it is stated that "[i]n Fig. 1, Gibbons teaches a rack (10) for supporting a plurality of components comprising a plurality of supports (11) defining a first region (F) for freely accessing components, and a second region (L) of limited access...." Gibbons, however, does not refer to either a first region (F) or a second region (L), and apparently, does not even recognize that such regions exist. Rather, the first region (F) and the second region (L) are identified with reference to a reproduction of Fig. 1 of Gibbons which is provided on page 18 of the Office Action.

Consequently, it is apparent that the motivation for combining the teachings of Gibbons with the teachings of Jandrakovik and/or Krimstock does not come from Gibbons, which is required for a combination of patents to be made under 35 U.S.C. §103(a). Rather, the proposed combination of Jandrakovik and

Krimstock with Gibbons is, once again, a random combination of unrelated patents made for the purpose of reconstructing the subject matter of applicant's claims. Accordingly, the rejection of applicant's claims based on the proposed combination of Jandrakovic, Krimstock and Gibbons is unwarranted.

Moreover, even if the combination of Jandrakovic, Krimstock and Gibbons which is proposed in the Office Action was attempted, there is no indication of how a structure resulting from a combination of Jandrakovic and Krimstock could be combined with the rack disclosed by Gibbons to yield the fixture for combining a component and a rack for receiving the component which is recited in applicant's claims.

Further distinctions between the subject matter of applicant's claims and the combinations of patents which have been proposed in the Office Action are present in various dependent claims, as well.

As examples, dependent claims 8, 23 and 34 recite a bearing plate having a channel formed in the bearing plate for receiving a follower which depends from an adjacent first plate. For purposes of rejecting such claims, the Office Action refers to "a follower (24) depending from the surface of the first plate (12), and... a channel (52) for receiving the follower (24)". It is submitted that the plate 24 of Jandrakovic is not properly characterized as a follower and that the concave groove 52 which is referred to in the Office Action is not a channel as defined in applicant's claims. Moreover, the concave groove 52 does not



receive any structure which depends from the adjacent foot plate 12, or the adjacent base platform 16, and accordingly, does not disclose applicant's structure, as claimed.

Dependent claims 10, 25 and 36 recite a guide slidingly received in a channel located between a first plate and a second plate, for limiting rotation of the first plate relative to the second plate. For purposes of rejecting such claims, the Office Action cites a patent to Randolph (US 2,937,839) to illustrate such structure. Once again, there is no motivation in Randolph for referring to its teachings, and the citation of Randolph is seen to be an impermissible hindsight reconstruction of applicant's claimed invention. Moreover, the referenced structures of Randolph are not received in a channel located between a first plate and a second plate, as is recited in applicant's claims.

Dependent claims 12 to 14, 27 to 29 and 38 to 40 are directed to a guide having at least one tab which laterally projects from the guide and which is slidingly received in a channel having at least one detent for receiving the tab. For purposes of rejecting such claims, the Office Action cites a patent to Kuebler (US 771,877) to illustrate such structure. Once again, there is no motivation in Kuebler for referring to its teachings, and the citation of Kuebler is seen to be an impermissible hindsight reconstruction of applicant's claimed invention. Moreover, the referenced structures of Kuebler are not received in a channel located between a first plate and a

second plate, as is recited in applicant's claims.

Dependent claims 15, 19, 30, 41 and 45 are directed to a locking mechanism which is fixed to a second plate and which has a tip extending through the second plate and into a channel of a bearing plate for selectively engaging a follower of a first plate. For purposes of rejecting such claims, the Office Action cites a patent to Roth (US 4,893,747) to illustrate such structure. Once again, there is no motivation in Roth for referring to its teachings, and the citation of Roth is seen to be an impermissible hindsight reconstruction of applicant's claimed invention. Moreover, the referenced locking mechanism 48 is not fixed to the subplate 30 of Roth, but is instead fixed to a U-shaped base member 20 which is provided beneath the subplate 30, and does not extend into a channel of a bearing plate for selectively engaging a follower of a first plate, as is recited in applicant's claims.

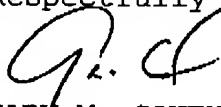
Dependent claims 16 to 18 and 42 to 44 are directed to first and second brackets for attaching the second plate of the fixture to the rack. For purposes of rejecting such claims, the Office Action again cites the patent to Roth to illustrate such structure. Once again, however, there is no motivation in Roth for referring to its teachings, and the citation of Roth is seen to be an impermissible hindsight reconstruction of applicant's claimed invention. Moreover, claims 42 to 44, as well as independent claim 31 and the claims which depend from it, are directed to a fixture which connects a component to a rack.

Neither Roth, nor the cited patents to Jandrakovic, Krimstock or Gibbons, would teach or in any way suggest how the structures of Jandrakovic, Krimstock and Roth could be used with the rack of Gibbons to produce the structures recited in applicant's claims.

In view of the foregoing, it is submitted that the various patents cited in the Office Action fail to disclose the structures recited in applicant's claims, that the structures recited in applicant's claims would not have been obvious to the person of ordinary skill in the art at the time of applicant's invention, and that the rejections of applicant's claims under 35 U.S.C. §103(a) based on such patents, either alone or in the various combinations which are proposed in the Office Action, are appropriately withdrawn.

Accordingly, it is submitted that this patent application is in condition for allowance and corresponding action is earnestly solicited.

Respectfully submitted,

  
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